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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO. | CONFIRMATION NO.  |
|--|-------------|-----------------------|---------------------|-------------------|
| 10/539,424   | 12/28/2005  | Rodney Wayne Claycomb | 1209.73412          | 1125              |
| 24978  | 7590        | 06/27/2008            | EXAMINER            |                   |
| GREER, BURNS & CRAIN<br>300 S WACKER DR<br>25TH FLOOR<br>CHICAGO, IL 60606 |             |                       |                     | SWIATEK, ROBERT P |
| 3643   |             | ART UNIT              |                     | PAPER NUMBER      |
| 06/27/2008   |             | MAIL DATE             |                     | DELIVERY MODE     |
|  |             |                       |                     | PAPER             |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                        |                        |  |
|------------------------------|------------------------|------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b>    |  |
|                              | 10/539,424             | CLAYCOMB, RODNEY WAYNE |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>        |  |
|                              | Rob Swiatek            | 3643                   |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 June 2005.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-32 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 21,24-26 and 28-32 is/are rejected.  
 7) Claim(s) 22, 23, 27 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4-20-07; 5-11-07</u> .  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21, 24, 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Aurik et al. (US 5,722,343). The Aurik et al. milking device includes robotic arm (not shown, but see column 2, lines 44, 45, of Aurik et al.), first holding tank 6, separation device 13, and bulk storage tank 9. Filter housing components 36, 37 are considered to be configured for replacement or substitution.

Claims 26, 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Aurik et al. The holding tank 6 of Aurik et al. feeds into separation device 13 via conduit 8. The Aurik et al. system is designed to be used for a succession of animals (see column 1, lines 62-66, of Aurik et al.).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 28, 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aurik et al. The precise components separated from the milk by separation device 13 of Aurik et al. and

the specific construction of the filter would have been obvious to one skilled in the art seeking to predictably remove any of a number of harmful substances from the collected milk in an expeditious manner.

Claims 26, 28-32 are objected to because of the following informalities: In claim 26, line 8, "each said" should be changed to –said at least one–. Appropriate correction is required.

Claims 22, 23, 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

It is noted that a copy of reference WO 02/074070 A1 seems to be absent from the file.

The references to Wuchse (US 4,174,721), Lidman (US 4,970,989), and Theelen (US 2003/0226508 A1) have been cited to provide additional examples of prior art milking devices and methods.

/Rob Swiatek/

Primary Examiner, Art Unit 3643

Ph.: 571/272-6894  
23 June 2008